

MELINDA HAAG (CABN 132612)
United States Attorney

MIRANDA KANE (CABN 150630)
Chief, Criminal Division

KYLE F. WALDINGER (ILSB 6238304)
Assistant United States Attorney

450 Golden Gate Avenue, 11th Floor
San Francisco, California 94102
Telephone: (415) 436-6830
Facsimile: (415) 436-7234
E-mail: kyle.waldinger@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, } No. CR 12-0640 EMC
Plaintiff, }
v. }
MARCO ANTONIO CHAVOYA OCHOA, } STIPULATION AND [PROPOSED]
Defendant. } ORDER CONTINUING STATUS
HEARING AND DOCUMENTING
EXCLUSION OF TIME UNDER THE
SPEEDY TRIAL ACT

The parties hereby jointly stipulate and agree, and do so request, that the status hearing currently scheduled before the Honorable Edward M. Chen for August 29, 2012, be continued to September 12, 2012, at 2:30 p.m. The parties also jointly request that the Court make a finding of excludable time under the Speedy Trial Act from August 29, 2012, to September 12, 2012, based on the need for effective preparation of defense counsel and the unavailability of government counsel and defense counsel. In support of their request, the parties state as follows:

1. The defendant appeared before the Honorable Elizabeth D. Laporte for arraignment on the Indictment on August 24, 2012. At that time, Judge Laporte set the matter for an initial appearance at this Court's first available date on August 29, 2012, per

STIP. & [PROPOSED] ORDER CONTINUING STATUS HEARING
CR 12-0640 EMC

1 this Court's standing request.

2 2. However, counsel for the government is unavailable for an appearance on
3 August 29, 2012, due to family issues. Counsel for the defendant is thereafter unavailable
4 on September 5, 2012, because of a previously scheduled appearance in another court.
5 The parties therefore jointly request that the Court continue the August 29, 2012, hearing
6 to September 12, 2012.

7 3. The grand jury returned the Indictment in this case on August 23, 2012.
8 Defense counsel entered her first appearance on behalf of the defendant on August 24,
9 2012. Upon receipt of a discovery request, the government will be producing discovery
10 to the defense. Based on all of these facts, defense counsel will need additional time to
11 review the discovery, meet with her client, and investigate the case. Continuing the
12 previously scheduled August 29, 2012, status hearing to September 12, 2012, will give
13 defense counsel an opportunity to accomplish these objectives.

14 4. The Court finds that, taking into account the exercise of due diligence and
15 the public interest in the prompt disposition of criminal cases, granting the continuance
16 until September 12, 2012, is necessary for effective preparation of defense counsel and
17 for continuity of government counsel and defense counsel. See 18 U.S.C.
18 § 3161(h)(7)(B)(iv). Given these circumstances, the Court finds that the ends of justice
19 served by excluding the period from August 29, 2012, to September 12, 2012, outweigh
20 the best interest of the public and the defendant in a speedy trial. Id. § 3161(h)(7)(A).

21 5. Accordingly, and with the consent of the defendant, the Court orders that
22 (1) the status hearing scheduled for August 29, 2012, be continued to September 12,
23 2012, and (2) the period from August 29, 2012, to September 12, 2012, be excluded from

24 ///

25 ///

26 ///

27 ///

28 ///

1 Speedy Trial Act calculations under 18 U.S.C. §§ 3161(h)(1)(D) and 3161(h)(7)(A) and
2 (B)(iv).

3
4 SO STIPULATED.

5 DATED: August 24, 2012

MELINDA HAAG
United States Attorney

6
7
8 DATED: August 24, 2012

/s/
9
10 KYLE F. WALDINGER _____
11 Counsel for defendant MARCO ANTONIO
12 CHAVOYA OCHOA

13 SO ORDERED.

14 DATED: August 27, 2012



21
22
23
24
25
26
27
28